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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/528, 560 03/20/00 BRANDT

R 06764.00004

QM32/0717

EXAMINER

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GRAHAM, M

ART UNIT

PAPER NUMBER

3711

DATE MAILED:

07/17/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/528,560	Applicant(s) Brandt
	Examiner Mark S. Graham	Art Unit 3711
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
Period for Reply <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jul 5, 2001</u>.</p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
Disposition of Claims <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-13</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) <u>12 and 13</u> is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-11</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
Application Papers <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. § 119 <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
Attachment(s) <p>15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>2</u> 20) <input type="checkbox"/> Other: _____</p>		

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Applicant's election with traverse of the bat embodiment in Paper No. 4 is acknowledged.

The traversal is on the ground(s) that "the novel aspects of the ball bat described in the present application are applicable to other sport striking implements." This is not found persuasive because applicant has not admitted on the record that the various embodiments are obvious variants of one another.

The requirement is still deemed proper and is therefore made FINAL.

Claims 12 and 13 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filice et al. (Filice).

Filice discloses the claimed device with the exception of the reversal of the male/female connector elements. Filice's barrel receives the handle whereas the applicant claims the reverse. However, such is considered a mere reversal of parts obvious to the ordinarily skilled artisan.

Claims 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filice in view of Peng '164 (Peng).

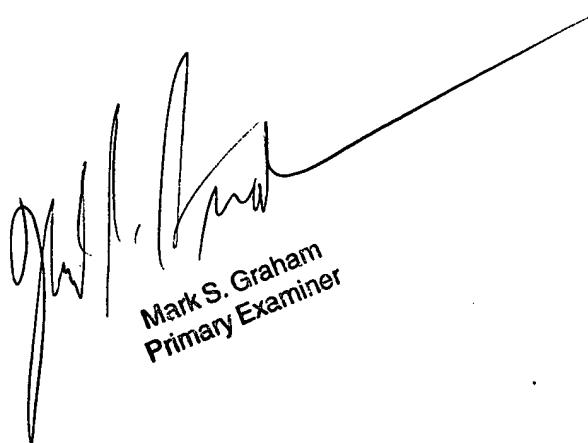
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Filice discloses the claimed device with the exception of the anchor. However, as disclosed by Peng an anchor of the type claimed may be used to anchor the handle and barrel portions together with an inserted elastomeric damping material therebetween. It would have been obvious to one of ordinary skill in the art to have used such an anchor on Filice's bat to better secure the barrel to the handle.

Muhlausen, Duong-Van, Haines, and Volpe have been cited for interest because they disclose similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number (703) 308-1355.

MSG
July 11, 2001



A handwritten signature in black ink, appearing to be "Mark S. Graham". Below the signature, the text "Primary Examiner" is written in a smaller, cursive font.